

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

ALLISON L. GRAHAM,

Plaintiff.

vs.

PAIR-A-DICE PROPERTIES II, LLC,

Defendant.

CASE NO.

**NOTICE OF REMOVAL  
OF CIVIL ACTION AND  
REQUEST FOR PLACE OF TRIAL**

Defendant, Pair-A-Dice Properties II, LLC, by and through its undersigned counsel, pursuant to 28 U.S.C. §§ 1441(a), 1441(c), 1446 and 1331, respectfully submits this Notice of Removal from the District Court of York County, Nebraska to the United States District Court for the District of Nebraska. As grounds for removal, Defendant states as follows:

## REMOVAL

1. Plaintiff Allison L. Graham has filed a civil action against Defendant in the District Court of York County, Nebraska captioned *Allison L. Graham v. Pair-A-Dice Properties II, LLC*, Case No. CI 15-238. This action was filed on December 10, 2015. A true and correct copy of the Complaint is attached as **Exhibit “A”** and incorporated herein by reference. Defendant was personally served on January 29, 2016.

2. Service of the state court Complaint, **Exhibit “A”**, was perfected on January 29, 2016. A true and correct copy of the Process Service Return is attached as **Exhibit “B”** and incorporated herein by reference.

3. Removal is proper because Plaintiff's discrimination claims, including claims under 42 U.S.C. §§ 12181 and 12188 raise federal questions and this Court has original jurisdiction over those claims. To the extent additional claims are asserted under the Nebraska Fair Employment Practices Act, this Court has jurisdiction over those claims by virtue of 28 U.S.C. § 1441(c) and 28 U.S.C. § 1367.

4. Venue is proper in this Court because Plaintiff was a resident of the State of Nebraska at all times relevant to the Complaint, and the actions complained of are alleged to have occurred within the State of Nebraska.

5. Defendant is a Nebraska limited liability company.
6. This Notice of Removal is timely under 28 U.S.C. § 1446(b) because it was filed within thirty (30) days of service of a copy of the initial state court Complaint.
7. Defendant will file a copy of this Notice of Removal and provide a written notice of the filing of this Notice of Removal in the state court action with the Clerk of the District Court for York County, Nebraska and will serve notice upon the adverse party as required by 28 U.S.C. § 1446(d).
8. No other proceedings have been conducted in this action. **Exhibits "A" and "B"** are the only documents that have been filed in the state court action.

**REQUEST FOR PLACE OF TRIAL**

9. Defendant requests trial in Lincoln, Nebraska.
- WHEREFORE, Defendant requests that this action be removed from the District Court of York County, Nebraska to the United States District Court for the District of Nebraska.
- Dated this 25<sup>th</sup> day of February, 2016.

PAIR-A-DICE PROPERTIES II, LLC, Defendant,

By: s/ Patrick M. Flood  
Patrick M. Flood, # 19042  
William E. Rooney, #24281  
PANSING, HOGAN, ERNST & BACHMAN, LLP  
10250 Regency Circle, Suite 300  
Omaha, Nebraska 68114  
Tel: (402) 397-5500; Fax: (402) 397-3834  
ATTORNEYS FOR DEFENDANT

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing has been furnished to the following by U.S. First Class Mail, postage prepaid on this 25<sup>th</sup> day of February, 2016:

Allison L. Graham  
1316 Meadow Lane  
York, NE 68467

s/ Patrick M. Flood

FILED IN THE DISTRICT COURT  
YORK COUNTY, NEBRASKA

IN THE DISTRICT COURT OF YORK COUNTY, NEBRASKA DEC 10 2015

ALLISON L. GRAHAM,

Case No. CI 15 - 238 **SHARILYN STEUBE  
CLERK**

Plaintiff,

v.

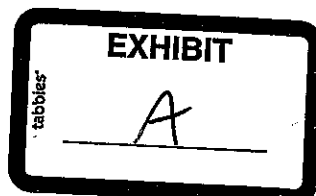
COMPLAINT

PAIR-A-DICE PROPERTIES II, LLC,

Defendant.

COMES NOW Plaintiff, Allison L. Graham, and for her Complaint against Defendant, states and alleges as follows:

1. Plaintiff is an individual person, and a resident of York, York County, Nebraska.
2. Defendant is a Limited Liability Company organized under the statutes of the State of Nebraska, which at all times material herein owned and operated a hotel in York, York County, Nebraska.
3. At all times material herein, Plaintiff was an employee of Defendant.
4. Plaintiff is an individual with a disability as defined in the Americans with Disability Act of 1990, 42 U.S.C. § 12181 et seq., as amended, and applicable Nebraska State Statutes, to wit: Plaintiff is hearing-impaired.
5. On or about September 9, 2014, Defendant, by and through its Vice President of Operations Ryan White, hired a Dawn Dowhy as assistant manager to Plaintiff. Ms. Dowhy immediately, and in the presence of other employees and customers, began a pattern of harassment regarding the disability of the Plaintiff, including such statements as "Halloween will be easy for you, you can just go as a deaf person," "Did they give you bionic ears?" and other statements which were disparaging and offensive. Upon complaint to White, no action was taken.



6. On or about November 11, 2014, Plaintiff required a medical leave of absence, and upon returning to work on November 24, 2014 was required by doctors to work 20 hours per week instead of full time. During said restriction by her doctor, Defendant, by and through its Vice President of Operations Ryan White, failed to accommodate Plaintiff, her disability, and her doctor's orders, by failing and refusing to allow Plaintiff to follow doctor's orders, and stating "it isn't my problem."
7. Plaintiff's employment with Defendant was terminated on or about December 2, 2014, and Plaintiff was replaced by Dowhy.
8. Plaintiff's disability was the cause of her termination.
9. Defendant discriminated against Plaintiff on the basis of disability in the full and equal employment of her services with reasonable accommodations against the Americans with Disabilities Act of 1990 in the following specific manners:
  - a. Limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;
  - b. Utilizing standards or criteria of methods of administration that have the effect of discriminating on the basis of disability;
  - c. Utilizing standards or criteria of methods of administration that perpetuate the discrimination of others who are subject to common administrative control;
  - d. Excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;
  - e. Not making reasonable accommodations to the known physical or mental limitations

- of an otherwise qualified individual with a disability who is an applicant or employee
- f. Failing to make reasonable modifications in policies, practices, and procedures when the modifications are necessary to avoid discrimination on the basis of disability;

WHEREFORE, Plaintiff prays to this Court for an Order: granting Judgment in favor of the Plaintiff and against the Defendant, and declare that Defendant violated the Americans with Disability Act of 1990, 42 U.S.C. § 12181 et seq., as amended; enjoining the Defendant, its officers, agents, employees, and all other persons in active concert and participation with the Defendant, from engaging in discriminatory policies and practices against individuals on the basis of their disabilities, and on the basis of relationships or associations with individuals with disabilities, and specifically from failing or refusing to take proper steps to ensure compliance with the requirements of the Americans with Disability Act of 1990, 42 U.S.C. § 12181 et seq., as amended; Awarding monetary damages in an appropriate amount to persons discriminated against by the Defendant, including damages for pain and suffering; assessing a civil penalty against the Defendant as authorized by 42 U.S.C. § 12188(B)(2)(c) to vindicate the public interest.

Dated this 10th day of December, 2015.

ALLISON L. GRAHAM, Plaintiff

By

  
ALLISON L. GRAHAM, Plaintiff

\*\*\* EFILED \*\*\*

Case Number: D17CI150000238

Transaction ID: 0003318534

Filing Time: 2016-01-29 10:00:00 PM CS

LANCASTER COUNTY SHERIFF'S OFFICE  
Lincoln, Nebraska 68508  
Process Service Return

Of Sheriff's Paper # 601158 to YORK County DISTRICT Court  
Case No: CI15 238

Received	Returned	Service and Return	\$ 18.00
01/21/2016	01/29/2016	Copy	
		Mileage	1.14
Type of Process		Miscellaneous	
SUMMONS		Total Fees	\$ 19.14
Copy of COMPLAINT			
		Paid by GRAHAM/ALISON	
		Attorney Code	
		Witness Fee Paid	\$
		Clerk Fee Paid	\$

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Plaintiff	Defendant
GRAHAM, ALISON L	PAIRADICE PROPERTIES

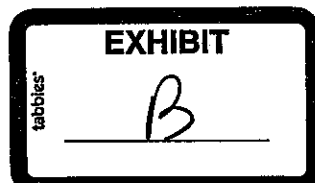
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Party Served: PAIR-A-DICE PROPERTIES II LLC  
5353 N 27TH ST LINCOLN NE  
By leaving with: CLARK ANDERSON/MGMT MEMBER 06/18/50  
SERVED @LSO  
Service Type: PERSONAL  
Service Date: 01/29/2016 , 1446 By: M STINSON

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I hereby certify that at the time and in the manner herein stated, I served the within writ, together with copies shown, on the herein named party(s) a true and certified copy thereof with all endorsements thereon, or returned said writ unserved in the prescribed manner.

All done in Lancaster County, Nebraska, as required law.



TERRY T. WAGNER, Sheriff  
By /s/MARGARET STINSON